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In re Application of :
De Flora et al. :
Application No. 09/125,022 :
Filed: 24 November, 1998 :
Attorney Docket No. P8903-8035 :

ON PETITION

This is a decision on the renewed petition filed on 27 June, 2000, under 37 CFR 1.137(b)¹, to revive the above-identified application.

The petition is **GRANTED**.

The instant application became abandoned on 5 February, 2000, for failure to submit a proper response to the final Office action mailed on 4 August, 1999, which set a three (3)-month shortened statutory period for reply. On 4 February, 2000, petitioner submitted (A) a request and payment of the fee for a three (3)-month extension of the time for reply in accordance with 37 CFR 1.136(a), and (B) an amendment after final rejection. The Examiner determined that this amendment did not place the case in *prima facie* condition for allowance, however, and the application therefore became abandoned. An Advisory Action notifying petitioners that the amendment after final did not place the application in *prima facie* condition

¹Effective December 1, 1997, the provisions of 37 CFR 1.137(b) now provide that where the delay in reply was unintentional, a petition may be filed to revive an abandoned application or a lapsed patent pursuant to 37 CFR 1.137(b). A grantable petition filed under the provisions of 37 CFR 1.137(b) must be accompanied by:

(1) the required reply, unless previously filed. In a nonprovisional application abandoned for failure to prosecute, the required reply may be met by the filing of a continuing application. In an application or patent, abandoned or lapsed for failure to pay the issue fee or any portion thereof, the required reply must be the payment of the issue fee or any outstanding balance thereof.

(2) the petition fee as set forth in 37 CFR 1.17(m);

(3) a statement that the entire delay in filing the required reply from the due date for the reply until the filing of a grantable petition pursuant to 37 CFR 1.137(b) was unintentional. The Commissioner may require additional information where there is a question whether the delay was unintentional; and

(4) any terminal disclaimer (and fee as set forth in 37 CFR 1.20(d)) required pursuant to 37 CFR 1.137(c).

for allowance was mailed on 17 March, 2000. Notice of Abandonment was mailed on 27 March, 2000.

Since this application is revived for purposes of continuity only with the Continued Prosecution Application (CPA) filed on 27 June, 2000, and since continuity has been established by this decision reviving the application, the application is again abandoned in favor of the above-referenced CPA.

The statement contained in the instant petition does not set forth that the entire delay from the date of abandonment to the date of the filing of a grantable petition was unintentional as required by 37 CFR 1.137(b)(3). However, the statement contained in the instant petition is being so construed. Petitioner must notify the Office if this is not a correct interpretation.

The correspondence address has been changed as indicated in the CPA filed on 27 June, 2000.

This application is being forwarded to Technology Center 1600 for processing of the CPA filed on 27 June, 2000.

Telephone inquiries concerning this matter may be directed to Petitions Attorney Douglas I. Wood, at (703)308-6918.



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